

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

HEATH B. CLARK,)	
)	
Plaintiff,)	
)	
v.)	CIVIL ACTION NO. 2:06-CV-843-MHT
)	[WO]
)	
ART BAYLOR, et al.,)	
)	
Defendants.)	

RECOMMENDATION OF THE MAGISTRATE JUDGE

This 42 U.S.C. § 1983 action was filed by Heath B. Clark [“Clark”], an inmate, on September 21, 2006. Subsequently, and prior to the defendants filing their special report and answer, Clark filed a motion to dismiss this cause of action.

Upon consideration of the plaintiff’s motion to dismiss, the court concludes that the motion is due to be granted. Furthermore, since the defendants have filed no response addressing the claims raised in the complaint, the court discerns that this case should be dismissed without prejudice. *See* Rule 41(a)(1), *Federal Rules of Civil Procedure*.

Accordingly, it is the RECOMMENDATION of the Magistrate Judge that the plaintiff’s motion to dismiss be granted and that this case be dismissed without prejudice

It is further

ORDERED that on or before November 14, 2006 the parties may file objections to

the Recommendation. Any objections filed must specifically identify the findings in the Magistrate Judge's Recommendation objected to. Frivolous, conclusive or general objections will not be considered by the District Court. The parties are advised that this Recommendation is not a final order of the court and, therefore, it is not appealable.

Failure to file written objections to the proposed findings and recommendations in the Magistrate Judge's report shall bar the party from a de novo determination by the District Court of issues covered in the report and shall bar the party from attacking on appeal factual findings in the report accepted or adopted by the District Court except upon grounds of plain error or manifest injustice. *Nettles v. Wainwright*, 677 F.2d 404 (5th Cir. 1982); *Stein v. Reynolds Securities, Inc.*, 667 F.2d 33 (11th Cir. 1982); *Bonner v. City of Prichard*, 661 F.2d 1206 (11th Cir. 1981, *en banc*) (adopting as binding precedent all of the decisions of the former Fifth Circuit handed down prior to the close of business on September 30, 1981).

Done this 1st day of November, 2006.

/s/Charles S. Coody
CHARLES S. COODY
CHIEF UNITED STATES MAGISTRATE JUDGE